

Paul A. L. Nelson  
On behalf of concerned citizens  
P. O. Box 858  
Haines, Alaska 99827  
907-303-0130

June 22, 2016

William Seward, Manager  
Haines Borough  
Haines, Alaska 99827

RE: Haines Borough Assembly violations of Haines Borough Charter,  
Comprehensive Plan, Codes and Haines Coastal Management plan.

Dear Mr. Seward,

Thank you for consideration of our concerns regarding violations of our local government rules. The following is an outline of the violations of the Haines Borough Charter, Comprehensive Plan, Codes and the Haines Coastal Management Plan by the Haines Borough:

1. Haines Borough Charter Article VIII Planning  
Section 8.01 Planning Commission  
(A) Purpose. The Haines Borough Planning Commission shall be the sole Planning Body, guided by the Comprehensive Plan.

Violation; The "Opportunities for Public Participation/Comment/Input since 2009 – Small Boat Harbor Expansion Project" (6 pages, attached) (Compiled by J. Cozzi, Borough Clerk, revised 5/9/16) (hereafter, Op. since 2009) states, that for over 6 (six) years the Haines Borough Assembly (hereafter, Assembly) and several committees held numerous meetings, approved plans, awarded engineering contracts, awarded drilling contracts and other activities relating to the Small Boat Harbor Expansion (hereafter, SBHE). The Haines Borough Planning commission (hereafter, PC) was only consulted 3 (three) times. In fact, the PC was not consulted at all until February 12, 2015.

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The exclusion of the PC from the planning process and the Public Process for almost 6 (six) years is a violation of the Haines Borough Charter Section 8.01.

2. Haines Borough Charter Article XII Service Areas  
Section 12.03 Establishment

Service Areas are created, established, altered or  
abolished by Ordinance. ....

Violation; The area of the proposed SBHE is in the Area Meriting Special Attention (hereafter, AMSA) (See Haines Coastal Management Plan - 2007, page 1-1, 3-76 et al). In researching the Op. since 2009 and other Assembly meetings, we have been unable to find an Ordinance that has been enacted by the Assembly that establishes a service area for the SBHE. The land in the SBHE has not been rezoned.

The failure of the Assembly to enact an Ordinance to establish a Service Area in the AMSA is a violation of the Haines Borough Charter, Section 12.03 et al.

3. Haines Borough Charter Article XII Service Areas  
Section 12.04 Administration and Finance

(A) Procedures. The Assembly shall by Ordinance  
prescribe procedures for the administration of service  
areas and financing services.

Violation; The failure of the Assembly to enact an Ordinance to secure or even propose the procedure for financing for the entire SBHE Service Area is a violation of the Haines Borough Charter Section 12.04.

4. Comprehensive Plan, page 34;  
"The Haines Borough Planning Commission is established in the  
Borough Charter as the sole planning body of the Borough, ....."

Violation; See #1 et al.

5. Haines Borough Code 12.08.06 Other Requirements Not Eliminated.  
"..... Coastal Management Consistency Reviews may be required. The land owner is required for knowing the necessity of a permit and acquiring it."

Violation; The Haines Borough has not conducted a Consistency Review. The failure of the Haines Borough to conduct a Consistency Review and acquiring the necessary permit(s) is a violation of Code 12.08.06 et al.

6. Haines Borough Code 18.110.010 - .040 Coastal Zone Management 18.110.030 Procedure.  
"..... The Planning Commission upon receipt of an application containing a requirement for Consistency Review, shall conduct any public hearings and processes required in the Coastal Zone Management Plan ....."

Violation; The Haines Borough has excluded the PC from the planning process (See #1 and #4) and has ignored the requirements of Haines Coastal Management Plan. The failure to use the PC is a violation of Haines Borough Code 18.110 and a violation of the Haines Coastal Management Plan. *+ Public Hearing*

7. Haines Borough Code 18.30.040 Planning Commission (K) ..... The commission is responsible for implementing and enforcing the provisions of the coastal zone management program prior to the issuance of any permit approval under this title. (See Chapter 18.110 HBC for specific regulations.)

Note: (This Code was recently recommended for change by the PC, but has not yet come before the Assembly for adoption of the PC recommended changes. I believe this Code is still in effect at this time. The changes recommended by the PC did not remove or diminish the Haines Coastal Management Plan.)

Violation(s); See violations 1 thru 6 and violation 8.

8. Haines Coastal Management Plan  
7.5 Borough Coordination of Local Consistency Review

Haines Borough Code 18.110.010 Authority.

The Coastal Zone Management Plan of the borough, adopted by the borough assembly on June 16, 1980, revised September 7, 1993, March 22, 2000, and September 5, 2006, shall apply to all permits issued under this title. (Ord. 07-05-158)

Violation; The Assembly has repeatedly failed to comply with the Haines Coastal Management Plan, See 7.5 et al.

Thank you for agreeing to meet with me today, Wednesday, June 22, 2016.  
See you at your office at 3pm

Sincerely,



Paul A. L. Nelson

cc: concerned citizens

# Opportunities for Public Participation/Comment/Input since 2009 – Small Boat Harbor Expansion Project

(Note: this list does not include many public meetings, discussions, and design workshops that took place prior to Nov. 2009)

Compiled by J. Cozzi, Borough Clerk, revised 5/9/16

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Date	Event	Topic/Purpose	Form of Notice
11/10/09	Assembly Meeting	Interim Manager Ward provided Master Plan and comments in his report for assembly review	Posted Assembly Agenda/Package and on website – 11/6-10
11/23/09	Assembly Meeting	Adopt Portage Cove Harbor Master Plan (includes parking requirements)	Posted Assembly Agenda/Package and on website – 11/19-23
3/29/10	Boat Harbor Advisory Committee (BHAC) Special Meeting	Review Harbor Design Alternatives	Posted Notice and on website – 3/25-29; Agenda during meeting
4/13/10	Assembly Meeting	PND Contract for South Harbor Expansion Project	Posted Assembly Agenda/Package and on website – 4/9-13 and during meeting
7/1/10	BHAC Meeting	Preliminary Harbor Southside Expansion Drawings	Posted Notice and on website – 6/25-7/10; Agenda during meeting
7/13/10	Assembly Meeting	PND Contract for South Harbor Expansion Project	Posted Assembly Agenda/Package and on website – 7/9-13
8/26/10	BHAC Special Meeting	PND Engineers Presentation of Southside Harbor Expansion Concepts	Posted Notice and on website – 8/16-26; Agenda during meeting
12/9/10	BHAC Meeting	North-South Harbor Expansion	Posted Notice and on website – 12/2-12/9
1/13/11	BHAC Meeting	North-South Harbor Expansion	Posted Notice and on website – 1/6-1/13
6/12/12	Assembly Meeting	PND Contract for South Harbor Expansion Project – concept 3A	Posted Assembly Agenda/Package and on website – 6/8-12 and during meeting
8/14/12	Assembly Meeting	PND Contract for South Harbor Expansion Project	Posted Assembly Agenda/Package and on website – 8/10-14
10/23/12	Assembly Meeting	PND Contract for South Harbor Expansion Project	Posted Assembly Agenda/Package and on website – 10/19-23 and during meeting
3/21/13	Port and Harbor Advisory Committee (PHAC) Meeting	Portage Cove Breakwater	Posted Notice and on website – 3/14-21
4/18/13	PHAC Meeting	Portage Cove Update, Boat Yard/Haul Out Plan	Posted Notice and on website – 4/12-18
5/14/13	Assembly Meeting	PND Contract for South Portage Harbor Expansion Project	Posted Assembly Agenda/Package and on website – 5/10-14 and during meeting

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5/15/13	Haines Harbor Customer Appreciation BBQ	"see latest port and harbor updates"	Posted Flyer and on website – 5/1-15
6/10/13	PHAC Meeting	Portage Cove Update, Boat Haul Out Plan	Posted Notice and on website – 6/5-10
8/19/13	PHAC Meeting	Portage Cove Updates, Portage Cove Breakwater discussion/recommendation	Posted Notice and on website – 8/12-19
8/28/13	Public Open House	PND Update on South Portage Cove Harbor Expansion and taking questions	Posted Notice and on website – 8/21-28
9/19/13	PHAC Meeting	Portage Cove Update, Portage Cove Breakwater discussion/recommendation	Posted Notice and on website – 9/12-19 and (mtg originally scheduled for 9/16 but rescheduled to encourage participation)
10/8/13	Assembly Meeting	PND Contract for South Portage Harbor Expansion Project	Posted Assembly Agenda/Package and on website – 10/4-8
10/17/13	PHAC Meeting	Portage Cove Breakwater discussion/recommendations	Posted Notice and on website – 10/10-17
12/9/13	PHAC Meeting	Concepts for the Layout of the Harbor and Breakwater	Posted Notice and on website – 12/2-9
1/20/14	PHAC Meeting	South Portage Cove Breakwater, Drive Down Float	Posted Notice and on website – 1/13-20
1/28/14	Assembly Meeting	Harbor Breakwater Decision	Posted Assembly Agenda/Package and on website – 1/24-28 and during meeting
2/25/14	Assembly Meeting	Confirm Harbor Concept #14	Posted Assembly Agenda/Package and on website – 2/21-25 and during meeting
3/11/14	Assembly Meeting	PND Contract for Harbor Phase One Engineering	Posted Assembly Agenda/Package and on website – 3/7-11 and during meeting
5/19/14	PHAC Meeting	Portage Cove Update	Posted Notice and on website – 5/13-19
5/23/14	Haines Harbor Customer Appreciation BBQ	"see latest port and harbor updates"	Posted Flyer and on website – 5/8-23
7/17/14	PHAC Meeting	Portage Cove Update	Posted Notice and on website – 7/10-17
8/21/14	PHAC Meeting	Portage Cove Update	Posted Notice and on website – 8/15-21
September 2014	----	Drilling at South Portage Cove Harbor	Posted Notice and on website- 9/16-20 and display ad in CVN – 9/18



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9/25/14	PHAC Meeting	Portage Cove Update, Vessel Storage in Parking Lot	Posted Notice and on website – 9/17-25
10/9/14	Town Hall Meeting – Ports and Harbors	Visual Aids of the New Harbor Layout	Posted Notice and on website – 9/22-10/9
10/23/14	PHAC Meeting	Portage Cove Update, Vessel Storage in Parking Lot	Posted Notice and on website – 10/16-23
12/22/14	PHAC Meeting	Portage Cove Update	Posted Notice and on website – 12/17-22
1/5/15	PHAC Meeting	35% Design for South Portage Cove Harbor Expansion	Posted Notice and on website – 12/23-1/5
1/8/15	Manager's Report	Small Boat Harbor 35% Plan Completion Update	Posted as part of the 1/8/15 assembly meeting packet
1/27/15	Manager's Report	Reported the Ports & Harbor provided PND inputs for the 35% complete SBCH breakwater & dredging documents	Posted as part of the 1/27/15 assembly meeting packet
2/10/15	Manager's Report	South Portage Cove Harbor Expansion update	Posted as part of 2/10/15 assembly meeting packet
2/12/15	Planning Commission Meeting	Opportunity to Review & Comment on 35% Harbor Design; PHAC Chair made presentation also	Posted Agenda/Packet and on website – 2/6-2/12
2/19/15	PRAC Meeting	Harbor Expansion Update provided by CED Director Mandeville	Posted agenda and on website 2/12-19
2/23/15	PHAC Meeting	Reviewed PC Comments on 35% Harbor Design and took public comments	Posted Notice and on website – 2/18-23
2/24/15	Manager's Report	South Portage Cove Harbor Expansion update	Posted as part of 2/24/15 assembly meeting packet
3/10/15	Manager's Report	Small Boat Harbor Project update; conceptual designs	Posted as part of 3/10/15 assembly meeting packet
3/23/15	PHAC Meeting	Last Call for Public Comments on 65% Harbor Design	Posted Notice and on website – 3/17-23
3/24/15	Assembly Meeting	PND Presentation of 65% Design (Lookout Park)	Posted Assembly Agenda/Packet and on website – 3/20-24 and during meeting
3/24/15	Manager's Report	Small Boat Harbor 65% Complete Plans	Posted as part of 3/24/15 assembly meeting packet
3/26/15	PHAC Special Meeting	Review of Public Input on 65% Harbor Design (assembly declined to extend the comment period)	Posted Notice and on website – 3/23-26
4/9/15	Parks & Recreation Advisory Committee (PRAC) Meeting [No quorum but held a	Lookout Park in Portage Cove Harbor Expansion Plan (referred to the PRAC and PC by Mayor Hill)	Posted Notice and on website – 4/6-9

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	work session with those present]		
4/14/15	Assembly Meeting	An effort to reconsider the 3/26/15 failed motion to extend the 65% comment period failed.	
4/16/15	Planning Commission Meeting	Opportunity to Review & Comment on 65% Harbor Design	Posted Agenda/Packet and on website – 4/10-16
5/12/15	Assembly Meeting	Informal Citizen <i>"Petition for Reconsideration of Proposed Beach Parking Lot"</i> – 88 signatures	Posted as part of assembly meeting packet
5/12/15	Manager's Report	Boat Harbor Cost-Benefit Analysis	Posted as part of 5/12/15 assembly meeting packet
5/26/15	PHAC Meeting	South Portage Cove Expansion Update	Posted Notice and on website 5/21-26
6/23/15	Assembly Meeting	Informal Petition of Support for Harbor Project signed by 40 <i>"fishermen/businessmen and members of our local Lynn Canal Gillnetters Association"</i>	Posted as part of assembly meeting packet
6/23/15	Manager's Report	Small Boat Harbor project update	Posted as part of 6/23/15 assembly meeting packet
6/25/15	PHAC Meeting	PND Update	Posted Notice and on website 6/16-25
7/13/15	Joint Meeting of Planning Commission, PRAC, and TAB	Lookout Park and Waterfront Aesthetics	Posted Notice and on website 7/8-13
7/23/15	PHAC Meeting	South Portage Cove Harbor Expansion Aesthetics and Timeline	Posted Notice and on website 7/20-23
7/27/15	Waterfront Aesthetics Subcommittee Meeting	Lookout Park and Waterfront Aesthetics	Posted Notice and on website 7/24-27
8/10/15	Waterfront Aesthetics Subcommittee Meeting	Lookout Park and Waterfront Aesthetics	Posted Notice and on website 8/3-10
8/11/15	Manager's Report	Reported 95% design plans posted on borough's website	Posted as part of 8/11/15 assembly meeting packet
8/27/15	PHAC Meeting	95% Design Review (voted to recommend assembly approval)	Posted Notice and on website 8/21-27
9/8/15	Manager's Report	Small Boat Harbor Update	Posted as part of 9/8/15 assembly meeting packet
9/9/15	Waterfront Aesthetics Subcommittee Meeting	Lookout Park and Waterfront Aesthetics	Posted Notice and on website 9/1-9
9/10/15	PHAC Meeting	Review 95% design for Portage Cove Harbor Expansion with new information from PND Engineers	Posted Notice and on website 9/1-10
9/10/15	Planning Commission Meeting	Public Hearing & Consideration of 95% Design Submittal	Posted Agenda/Packet and on website 9/4-10
9/22/15	Assembly Meeting	Informal Petition supporting the <i>"harbor expansion project 14B that</i>	Posted as part of the assembly meeting packet



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		<i>is currently at 95%</i> – 309 signatures	
9/22/15	Manager's Report	Review of Harbor Design by the State	Posted as part of 9/22/15 assembly meeting packet
9/24/15	PHAC Meeting	Review 95% Harbor Design; Review Base-Bid Options, Review Add Alternates; Provide Recommendation to Assembly	Posted Notice and on website – 9/21-24
10/13/15	Manager's Report	Small Boat Harbor Permitting Update	Posted as part of 10/11/15 assembly meeting packet
10/22/15	PHAC Meeting	Review 95% Harbor Design; Army Corps Update on Harbor Project	Posted Notice and on website – 10/16-22
10/22/15	Harbor Town Hall Meeting	Primary Topic posted as: <i>Harbor Expansion and Explanation of Current 95% Plans</i>	10/15/15 CVN Save-the-Date, Posted on website calendar
10/27/15	Manager's Report	Reported on 10/22 Harbor Town Hall where the status of the Small Boat Harbor plan was provided	Posted as part of 10/27/15 assembly meeting packet
11/10/15	Manager's Report	USACE feedback on Public Comment on Harbor Project	Posted as part of 11/10/15 assembly meeting packet
1/8/16	PHAC Meeting	South Portage Cove Harbor Expansion	Posted Notice and on website – 1/5-8
1/12/16	Manager's Report	Small Boat Harbor project update	Posted as part of 1/12/16 assembly meeting packet
1/21/16	Manager's Report	Small Boat Harbor project update	Posted as part of 1/26/16 assembly meeting packet
1/28/16	PHAC Meeting	Harbor Expansion Permit Update	Posted Notice and on website – 1/22-28
2/25/16	PHAC Meeting	Harbor Expansion Permit Update	Posted Notice and on website – 2/22-25
3/3/16	Manager's Report	408 Permit Update	Posted as part of 3/8/16 assembly meeting packet
3/18/16	PHAC Meeting	PND Document Review for 408 Permit	Posted Notice and on website – 3/14-18
3/29/16	Manager's Report	408 Permit Update	Posted as part of 3/29/15 assembly meeting packet
4/7/16	PHAC Meeting	408 Permit and Lookout Park	Posted Notice and on website – 4/5-7
4/12/16	Assembly Meeting	95% Design Submittal Approval Request (it was ultimately approved)	Documents part of the published assembly meeting packet
4/12/16	Manager's Report	408 Permit, 95% Design, and Lookout Park Updates	Posted as part of 4/12/16 assembly meeting packet
4/25/16	Joint PHAC and PRAC Meeting	Lookout Park; Harbor Expansion Project	Posted Notice and on website – 4/20-25
4/28/16	PHAC Meeting	Army Corps Permits; Harbor Expansion Project, Lookout Park Project Budget	Posted Notice and on website – 4/22-28

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5/5/16	PHAC Meeting	Comments on 408 Permit	Posted Notice and on website – 4/29-5/5
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90

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42